

STATE OF MICHIGAN
COURT OF APPEALS

B & B INVESTMENT GROUP and B & B
GROUP, L.L.P.,

UNPUBLISHED
January 4, 2000

Plaintiffs-Appellants,

v

No. 207153
Oakland Circuit Court
LC No. 96-527503 CK

THE COUNTY OF OAKLAND, JAMES H.
VANLEUVEN, JR., and ROBERT DADAU,

Defendants-Appellees.

Before: Saad, P.J., and McDonald and Gage, JJ.

PER CURIAM.

Plaintiffs appeal as of right from the trial court's order granting defendants' motion for summary disposition. We affirm.

Plaintiffs acquired tax titles for three parcels of property, all of which were redeemed. Defendants did not pay the redemption funds to plaintiffs immediately as required by MCL 211.141(2); MSA 7.199(2). Payment was withheld due to plaintiffs' outstanding debt under a subscription agreement for records access. Ultimately, the redemption funds were paid to plaintiffs pursuant to court order.

Plaintiffs filed suit alleging wrongful conversion of the funds. Subsequently, plaintiffs dismissed Oakland County and filed an amended complaint naming two county employees as defendants. Defendants VanLeuven and Dadau moved for summary disposition pursuant to MCR 2.116(C)(7), arguing that they were immune from tort liability because their conduct did not amount to gross negligence. The trial court granted the motion.

We review a trial court's decision on a motion for summary disposition de novo. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

Plaintiffs argue that the trial court erred by granting defendants' motion for summary disposition. We disagree and affirm. Plaintiffs' complaint alleged conversion of the redemption funds. Conversion is

an intentional tort. *Citizens Ins Co v Delcamp Truck Center, Inc*, 178 Mich App 570, 575; 444 NW2d 210 (1989). Pursuant to MCL 691.1407(2); MSA 3.996(107)(2), an officer or employee of a governmental agency is immune from tort liability if he was acting, or reasonably believed himself to be acting, within the scope of his authority, was engaged in the exercise or discharge of a governmental function, and did not engage in conduct amounting to gross negligence. MCL 691.1407(2)(c); MSA 3.996(107)(2)(c) defines “gross negligence” as “conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.” Plaintiffs’ assertion that defendants’ intentional act of withholding the redemption funds violated a statutory duty, and therefore constituted gross negligence, is without merit. Defendants withheld the redemption funds for a time because plaintiffs were indebted to Oakland County pursuant to the subscription agreement. While violation of a statute may lead to an inference of negligence, SJI2d 12.01, establishment of ordinary negligence is by definition insufficient to impose tort liability on employees of a governmental agency. Summary disposition was proper. *Jackson v Saginaw County*, 458 Mich 141, 146-147; 580 NW2d 870 (1998).

Affirmed.

/s/ Henry William Saad

/s/ Gary R. McDonald

/s/ Hilda R. Gage